

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ARCHIE BRISTOL,

Plaintiff,

-VS-

**DON SAWYER, HAL E. SMITH, PHILLIP
YORKE, WILLIAM GOODMAN,
CENTRAL NEW YORK PSYCHIATRIC
CENTER and FIVE POINTS
CORRECTIONAL FACILITY**

Defendants.

**SECOND AMENDED
COMPLAINT**

Civil Action No.
03-CV-6361P

JURY TRIAL DEMANDED

Plaintiff, by its attorneys, Hiscock & Barclay, LLP, as and for its Complaint against Defendants, alleges as follows:

INTRODUCTION

1. This action arises out of Defendants Don Sawyer, Hal E. Smith, Phillip Yorke, William Goodman, Central New York Psychiatric Center and Five Points Correctional Facility (“Defendants”) mistreatment and deprivation of medical services of inmate Plaintiff Archie Bristol (“Plaintiff”).

2. At all relevant times the Plaintiff was an inmate at Central New York Psychiatric Center (“CNYPC”).

3. Plaintiff filed a *pro se* complaint against Defendants on July 31, 2003.

4. Plaintiff experienced and continues to experience harassment, abuse, dehumanization and torture and the denial of medical treatment in violation of the United States Constitution.

PARTIES

5. Donald Sawyer is the Director of Operations at Central New York Psychiatric Center, P.O. Box 300, Marcy, New York 13403.

6. Hal E. Smith is the Executive Director at Central New York Psychiatric Center, P.O. Box 300, Marcy, New York 13403.

7. Phillip Yorke is Psychologist at Central New York Psychiatric Center, P.O. Box 300, Marcy, New York 13403.

8. Doctor William Goodman is Psychiatrist at Five Points Correctional Facility, State Route 96, P.O. Box 119, Romulus, New York 14541.

9. Central New York Psychiatric Center is located at P.O. Box 300, Marcy, New York 13403.

10. Five Points Correctional Facility is located on State Route 96, P.O. Box 119, Romulus, New York 14541

11. Upon information and belief, Don Sawyer, Hal E. Smith, Phillip Yorke, and William Goodman were employed or continue to be employed at Central New York Psychiatric Center, P.O. Box 300, Marcy, New York 13403 or Five Points Correctional Facility, State Route 96, P.O. Box 119, Romulus, New York 14541.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction based on a federal question under 28 U.S.C. § 1331 because this action arises under the Constitution, laws, or treaties of the United States and the matter in controversy exceeds the sum or value of \$10,000,000.

13. Venue is proper in the United States District Court for the Western District of New York under 28 U.S.C. § 1391(a)(2) because a substantial part of the events or omissions giving rise to the claim occurred there.

FACTUAL ALLEGATIONS

14. Plaintiff suffers from mental disease. Plaintiff has been on prescription medicine to treat his mental disease since 1976.

15. Between January 2003 and June 2005, Plaintiff was divested of the medication used to treat his mental disease and/or denied proper and adequate mental health treatment.

16. As a result of being deprived of prescription medicine and proper mental health treatment, Plaintiff suffered from severe physical pain, severe headaches, extreme anxiety and depression, and suicidal thoughts.

17. Plaintiff was also subject to harassment, abuse, dehumanization, and torture by Defendants.

18. As a result of Defendants' continued harassment, abuse, dehumanization, torture and the denial of medical treatment, Plaintiff attempted suicide on multiple occasions.

19. As a result of Defendants' continued harassment, abuse, dehumanization, torture and the denial of medical treatment, Plaintiff suffered, and continues to suffer, from physical and emotion injuries caused by Defendants' unlawful conduct.

COUNT I ***(Deprivation of Medical Services)***

20. Plaintiff repeats and realleges all of the allegations set forth above as if more fully set forth herein.

21. Plaintiff was denied necessary medical treatment for his mental disease for certain periods from January 2003 until June 2005.

22. Defendants denied Plaintiff adequate medical treatment for his mental disease or provided inadequate medical treatment during the period of January 2003 until June 2005.

23. Defendants' intentionally injurious, reckless, callous, shocking, or like conduct is a violation of Section 1983 of 42 U.S.C. Federal Civil Rights Act.

COUNT II
(Cruel and Unusual Punishment)

24. Plaintiff repeats and realleges all of the allegations set forth above as if more fully set forth herein.

25. Defendants' harassment, abuse, dehumanization, torture and denial of medical treatment to the Plaintiff amounted to cruel and usual punishment under the Eighth Amendment of the United States Constitution.

COUNT III
(Discrimination because of Disability)

26. Plaintiff repeats and realleges all of the allegations set forth above as if more fully set forth herein.

27. Plaintiff has a qualified disability as defined under the Americans with Disabilities Act (ADA), 42 U.S.C.S. §12131.

28. Plaintiff was excluded from participation and denied the benefits of services, programs, or activities by reason of his disability between January 2003 and June 2005 by defendants Central New York Psychiatric Center and Five Points Correctional Facility.

29. The denial of prison activities to the Plaintiff by Central New York Psychiatric Center and Five Points Correctional Facility is a violation of the ADA, 42 U.S.C.S. §12131.

COUNT IV
(Permanent Injunction)

30. Plaintiff repeats and realleges all of the allegations set forth above as if more fully set forth herein.

31. Plaintiff is entitled to permanent injunctive relief transferring him to a State run hospital for in-patient care.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

WHEREFORE, Plaintiff respectfully demands:

- (a) monetary damages in the amount of \$10,000,000;
- (b) a permanent injunction transferring the Plaintiff to in-patient care at a State run hospital ;
- (c) an award of its attorneys' fees and costs in this action; and
- (d) such other and further relief as is just and proper.

DATED: February 15, 2007

HISCOCK & BARCLAY, LLP

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Paul A. Sanders

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